

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOHN EARL WALKER,  
Plaintiff,  
v.  
RONALD DAVIS, et al.,  
Defendants.

Case No. 17-cv-04361-MEJ (PR)

**ORDER DENYING PLAINTIFF'S  
MOTION FOR APPOINTMENT OF  
COUNSEL**

Re: Dkt. No. 9

Plaintiff has requested that counsel be appointed to assist him in this action. A district court has the discretion under 28 U.S.C. § 1915(e)(1) to designate counsel to represent an indigent civil litigant in exceptional circumstances. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986). This requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. See id. Neither of these factors is dispositive and both must be viewed together before deciding on a request for counsel under § 1915(e)(1). Here, exceptional circumstances requiring the appointment of counsel are not evident. The request for appointment of counsel is therefore DENIED. The Court will consider appointment of counsel on its own motion, and seek volunteer counsel to agree to represent plaintiff pro bono, if it determines at a later time in the proceedings that appointment of counsel is warranted.

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The Court sua sponte extends the deadline for plaintiff to file an amended complaint to **March 30, 2018**. Failure to file an amended complaint by March 30, 2018 will result in the dismissal of this case without prejudice.

This order terminates Docket No. 9.

**IT IS SO ORDERED.**

Dated: February 22, 2018



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MARIA-ELENA JAMES  
United States Magistrate Judge